

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:09-CV-465-MOC-DCK**

**PROSPECT CAPITAL CORPORATION,  
individually and derivatively on behalf of  
ESA ENVIRONMENTAL SPECIALISTS,  
INC.,**

**Plaintiffs,**

**v.**

**NATHAN M. BENDER, DAVID C. EPPLING,  
JACOB COLE, JOHN M. MITCHELL,  
SHELTON SMITH, SANDRA DEE COLE,  
MICHAEL ANTHONY HABOWSKI,  
DENNIS M. MOLESEVICH, TRACEY  
HAWLEY, ADKISSON, SHERBERT &  
ASSOCIATES, HOULIHAN SMITH,  
and SUNTRUST BANKS, INC.,**

**Defendants.**

**ORDER**

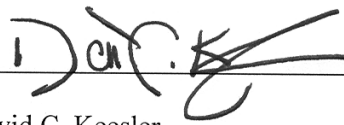
**THIS MATTER IS BEFORE THE COURT** on “Plaintiff Prospect Capital Corporation’s Motion To File Materials Under Seal” (Document No. 73) filed February 7, 2012. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion and the record, and noting that Defendant Adkisson, Sherbert & Associates, P.A. (“Adkisson Sherbert”) does not oppose the motion, the undersigned will grant the motion.

Plaintiff Prospect Capital Corporation (“Plaintiff”) seeks permission from the Court “to file under seal its Motion for a Protective Order and a copy of the Unexecuted Draft Proposed Agreement with any economic terms redacted therefrom.” (Document No. 73, p.3). According to its brief in response filed February 13, 2012, Defendant Adkisson Sherbert “does not object to the

specific relief sought in the Motion to File Materials Under Seal.” (Document No. 76, p.3). Based on the foregoing, the Court will allow Plaintiff’s motion.

**IT IS, THEREFORE, ORDERED** that “Plaintiff Prospect Capital Corporation’s Motion To File Materials Under Seal” (Document No. 73) is **GRANTED**.

Signed: February 14, 2012

  
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David C. Keesler  
United States Magistrate Judge

